

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

**COMMAND AUDIT OF THE
YREKA AREA**



FINAL REPORT

JUNE 7, 2010

M e m o r a n d u m

Date: June 7, 2010

To: Office of the Commissioner
Attention: Commissioner J. A. Farrow

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Office of the Assistant Commissioner, Inspector General

File No.: 005.9968.A13471.010

Subject: FINAL 2009 COMMAND AUDIT REPORT OF THE YREKA AREA

In accordance with the Institute of Internal Auditors, *International Standards for the Professional Practice of Internal Auditing* §2440, issued by the Institute of Internal Auditors, Government Code §13887(a)(2), and the California Highway Patrol Audit Charter, I am issuing the 2009 Command Audit Report of the Yreka Area. The audit focused on the command's Driving Under the Influence and Asset Forfeiture Programs.

The audit revealed the command has adequate operations. However, some issues were observed. This report presents suggestions for management to improve on some of its operations. In doing so, operations would be strengthened and the command would ensure it is operating in compliance with policies and procedures. We have included our specific findings, recommendations, and other pertinent information in the report. The Yreka Area agreed with all of the findings and plans to take corrective action to improve its operations.

Yreka Area will be required to provide a 30 day, 60 day, six month, and one year response on its corrective action plan implementation. If identified issues are resolved and addressed during any phase of the above reporting period, no future action is required on their behalf. Also, the Office of Inspections plans on conducting a follow-up review within one year from the date of the final report.

Additionally, in accordance with the *International Standards for the Professional Practice of Internal Auditing* and Government Code §13887(a)(2), this report, the response, and any follow-up documentation is intended for the Office of the Commissioner; Office of the Assistant Commissioner, Field; Office of the Assistant Commissioner, Inspector General; Office of Legal Affairs; Office of Inspections; Northern Division; and the Yreka Area. Please note this report restriction is not meant to limit distribution of the report, which is a matter of public record pursuant to Government Code §6250 et seq.

Office of the Commissioner

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Furthermore, in accordance with the Governor's Executive Order S-20-09 to increase government transparency, the final audit report, including the response to the draft audit report, will be posted on the CHP's internet website, and on the Office of the Governor's webpage, located on the State's Government website.

The Office of Inspections would like to thank Yreka Area's management and staff for their cooperation during the audit. If you need further information, please contact Captain Ernie Sanchez at (916) 843-3160.

A handwritten signature in black ink, appearing to read "M. C. A. Santiago". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

M. C. A. SANTIAGO, CIG, CLEA
Assistant Commissioner

cc: Office of the Assistant Commissioner, Field
Northern Division
Yreka Area
Office of Legal Affairs
Office of Inspections, Audits Unit

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

COMMAND AUDIT OF THE YREKA AREA

OFFICE OF INSPECTIONS, AUDITS UNIT

JUNE 7, 2010

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EXECUTIVE SUMMARY

The Commissioner has the responsibility, by statute, to enforce laws regulating the operation of vehicles and use of highways in the State of California and to provide the highest level of safety, service, and security to the people of California. Consistent with the California Highway Patrol's (CHP) 2009 Audit Plan, the Office of the Commissioner directed the Office of Inspections, Audits Unit, to perform an audit of the Yreka Area.

The CHP's 2008-2010 Strategic Plan highlights the mission statement which includes five broad strategic goals designed to guide the CHP's direction. One strategic goal is to continuously look for ways to improve the efficiency and/or effectiveness of departmental operations.

The objective of the audit is to determine if the command has complied with operational policies and procedures regarding the Driving Under the Influence (DUI) Cost Recovery and Asset Forfeiture Programs. Additionally, this audit will provide managers with reasonable, but not absolute, assurance that departmental operations are being properly executed. The audit period was from January 1, 2008 through March 31, 2009. The audit included a review of existing policies and procedures, as well as, examining and testing recorded transactions to determine compliance with established policies, procedures, and good business practices. The audit field work was conducted from April 20 – 22, 2009.

Sample selection for this audit was primarily random. However, if a judgmental sample was necessary, the auditor selected accordingly. Whenever possible, the use of risk assessment was used to select a sample containing the highest probability of risk to the command.

Based on the review of the Yreka Area's operations, this audit revealed the Yreka Area has complied with most operational policies. However, some issues were observed. The following is a summary of the identified issues:

Asset Forfeiture Program

- The command's Asset Forfeiture Coordinator (AFC) did not receive training on an annual basis from the Division AFC.

DUI Cost Recovery Program

- The billable hours recorded on the CHP 735, Incident Response Reimbursement Statement, could not always be reconciled to the hours recorded on the CHP 415, Daily Field Record.
- The command did not prepare CHP 415, Daily Field Record, documents properly for the DUI Cost Recovery Program.
- The command did not always complete their DUI Cost Recovery Program documents accurately.
- The command sought reimbursement from DUI defendants when it was not entitled to recovery.



Please refer to the Findings and Recommendations section for detailed information.

AUDIT REPORT

INTRODUCTION

To ensure the California Highway Patrol's (CHP) operation is efficient and/or effective and internal controls are in place and operational, the Office of the Commissioner directed the Office of Inspections, Audits Unit, to perform an audit of the Yreka Area.

The CHP's 2008-2010 Strategic Plan highlights the mission statement which includes five broad strategic goals designed to guide the CHP's direction. One strategic goal is to continuously look for ways to improve the efficiency and/or effectiveness of departmental operations. This audit will assist the CHP in meeting its goal.

OBJECTIVE AND SCOPE

The objective of the audit is to determine if the command has complied with operational policies and procedures regarding the Driving Under the Influence (DUI) Cost Recovery and Asset Forfeiture Programs that provide managers with reasonable, but not absolute, assurance departmental operations are being properly executed. The audit period was from January 1, 2008 through March 31, 2009. This audit included the review of existing policies and procedures, as well as, examining and testing recorded transactions to determine compliance with established policies, procedures, and good business practices. The audit field work was conducted from April 20 - 22, 2009.

METHODOLOGY

Under the direction by the Office of the Commissioner, each command was randomly selected to be audited regarding its DUI Cost Recovery and Asset Forfeiture Programs. Sample selection of areas to be audited was primarily random or judgmental. Whenever possible, the use of risk assessment was used to select a sample containing the highest probability of risk to the command.

There were no prior audit reports or findings of this command.

OVERVIEW

Asset Forfeiture Program: The command was compliant with most state laws and departmental policies and has adequate internal controls regarding their Asset Forfeiture Program. However, the command's Asset Forfeiture Coordinator (AFC) did not receive training on an annual basis from the Division AFC. The command's AFC did receive Asset Forfeiture Program training from the departmental office of primary interest in April 2009, however, it occurred after the audit field work was conducted.

DUI Cost Recovery Program: The command was compliant with most state laws and departmental policies and has adequate internal controls regarding their DUI Cost Recovery Program. However, the billable hours recorded on the CHP 735, Incident Response Reimbursement Statement, could not always be reconciled to the hours recorded on the CHP 415, Daily Field Record; the command did not prepare CHP 415, Daily Field Record, documents properly for the DUI Cost Recovery Program; the command did not always complete their DUI Cost Recovery Program documents accurately; and the command sought reimbursement from DUI defendants when it was not entitled to recovery.

This audit revealed the command has adequate operations, nevertheless, issues were discovered, which if left unchecked could have a negative impact on the command and CHP operations. These issues should be addressed by management to maintain the command's compliance with appropriate law, regulations, policies, and procedures. The issues and appropriate recommendations are presented in this report.

As a result of changing conditions and the degree of compliance with policies and procedures, the efficiency and effectiveness of operations change over time. Specific limitations may hinder the efficiency and effectiveness of an otherwise adequate operation include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, fraud, and management overrides. Establishing compliant and safe operations and sound internal controls would prevent or reduce these limitations; moreover, an audit may not always detect these limitations.

FINDINGS AND RECOMMENDATIONS

ASSET FORFEITURE PROGRAM

FINDING 1: **The command's Asset Forfeiture Coordinator (AFC) did not receive training on an annual basis from the Division AFC.**

Condition: The command's AFC has not received training from the Division AFC on an annual basis. The command's AFC did receive training from the Department's office of primary interest over the Asset Forfeiture Program in April 2009, subsequent to the audit field work.

Criteria: Government Code Section 13403(a)(4) and (6) says the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following: An established system of practices to be followed in performance of duties and functions in each of the state agencies; and an effective system of internal review.

Highway Patrol Manual (HPM) 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 21.a, states,

"21. ASSET FORFEITURE TRAINING.

a. In order to ensure uniformity throughout the Department, Division AFCs shall receive annual training from the departmental AFC coordinator in FSS. The training will encompass asset forfeiture laws, pending state and/or federal legislation relating to asset forfeiture, departmental policies, and procedures. Division AFCs will in turn provide annual training to Area AFCs, uniformed employees assigned to NTFs, canine handlers, and affected non-uniformed employees involved with asset forfeiture. The training shall be of sufficient duration to ensure full understanding of legal/policy requirements. In addition, Division AFCs should attend Division Area Commanders' Conferences as necessary to provide commanders with an overview of the Department's AFP and any related new legislation or updates to departmental policy."

Recommendation: The command should comply with departmental policy as it relates to annual asset forfeiture training.

DRIVING UNDER THE INFLUENCE (DUI) COST RECOVERY PROGRAM

FINDING 1: **The billable hours recorded on the CHP 735, Incident Response Reimbursement Statement, could not always be reconciled to the hours recorded on the CHP 415, Daily Field Record.**

Condition: From a population of 22 CHP 735 billing packages, 19, or approximately 86 percent, of the packages were tested. In 11 (58 percent) packages

tested, the command did not correctly record the number of staff hours involved in the DUI incident response. The auditor was unable to reconcile the billable hours recorded on the CHP 735 to the hours recorded on the CHP 415.

Criteria:

Government Code Section 13403(a)(3), (4), and (6) says the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following: A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures; an established system of practices to be followed in performance of duties and functions in each of the state agencies; and an effective system of internal review.

HPM 11.1, Administrative Procedures Manual, Chapter 20, Driving Under the Influence (DUI) Cost Recovery Program, paragraph 4.e.(2)(c) states,

“(c) The number of staff hours charged on the CHP 735, Incident Response Reimbursement Statement, must agree with the appropriate CHP 415, Daily Field Record. Area office must be able to verify the hours claimed on the CHP 735, Incident Response Reimbursement Statement, when offenders challenge the hours billed. If an Area office cannot substantiate the hours billed, the Department cannot recover incident costs. In order to reconcile the hours, please ensure the following information is included:

1 Offender’s name and court case number shall be included on the CHP 415, Daily Field Record.

2 When time recorded under a specific category (e.g., Accident Investigation, Partner Assist, Response Time) on the CHP 415, Daily Field Record, includes more than one activity, indicate the billable DUI time in the Notes portion on the CHP 415, Daily Field Record.”

Recommendation: The command should comply with departmental policy by reconciling billable hours recorded on the CHP 735 to the hours recorded on the CHP 415.

FINDING 2: **The command did not prepare CHP 415, Daily Field Record, documents properly for the DUI Cost Recovery Program.**

Condition: From a population of 22 CHP 735 billing packages, 19, or approximately 86 percent, of the packages were tested. In all 19 (100 percent) packages, the CHP 415 did not record the DUI offender’s name, court case number, and billable DUI time.

Criteria: Government Code Section 13403(a)(3), (4), and (6) says the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following: A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures; an established

system of practices to be followed in performance of duties and functions in each of the state agencies; and an effective system of internal review.

HPM 11.1, Administrative Procedures Manual, Chapter 20, Driving Under the Influence (DUI) Cost Recovery Program, paragraph 4.e.(2)(c) states,

“(c) The number of staff hours charged on the CHP 735, Incident Response Reimbursement Statement, must agree with the appropriate CHP 415, Daily Field Record. Area office must be able to verify the hours claimed on the CHP 735, Incident Response Reimbursement Statement, when offenders challenge the hours billed. If an Area office cannot substantiate the hours billed, the Department cannot recover incident costs. In order to reconcile the hours, please ensure the following information is included:

1 Offender’s name and court case number shall be included on the CHP 415, Daily Field Record.

2 When time recorded under a specific category (e.g., Accident Investigation, Partner Assist, Response Time) on the CHP 415, Daily Field Record, includes more than one activity, indicate the billable DUI time in the Notes portion on the CHP 415, Daily Field Record.”

Recommendation: The command should prepare CHP 415 documents properly to comply with the departmental policy applicable to the DUI Cost Recovery Program.

FINDING 3: **The command did not always complete their DUI Cost Recovery Program documents accurately.**

Condition: From a population of 22 CHP 735 billing packages, 19, or approximately 86 percent, of the packages were tested. In 12 (63 percent) CHP billing packages examined, one or more sections of the CHP 735 were not completed by command staff. Missing sections included a minimum of one of the following: the court case number, the defendant’s social security number, the Blood Alcohol Concentration (BAC) results received dates, and/or the court name.

Criteria: Government Code Section 13403(a)(3), (4), and (6) says the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following: A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures; an established system of practices to be followed in performance of duties and functions in each of the state agencies; and an effective system of internal review.

HPM 11.1, Administrative Procedures Manual, Chapter 20, Driving Under the Influence (DUI) Cost Recovery Program, paragraphs 4 b., c., d., e., f., g., h., and i. states,

“b. Completion of CHP 735, Incident Response Reimbursement Statement. The cost recovery criterion is separated into two separate sections on the CHP 735, Incident Response Reimbursement Statement: Section A or Section B. Section A shall be completed when the billing is based on arrest. Section B shall be completed when the billing is based on conviction. Forward only those forms which meet ALL the criteria in either Section A or Section B; only one section shall be completed per case.

(1) Completed CHP 735s, Incident Response Reimbursement Statements, based on Section A (refer to Annex B) shall be forwarded to Fiscal Management Section (FMS), Reimbursable Services Unit, within ten business days of one of the following dates:

- (a) The date BAC results of .08% or greater are received.
- (b) The date BAC results of .04% or greater are received for a commercial driver.

(2) Completed CHP 735s, Incident Response Reimbursement Statements, based on Section B (refer to Annex C) shall be forwarded to FMS, Reimbursable Services Unit, within ten business days of the notification of a conviction of CVC Sections 23152, 23153, or greater offense as a result of one of the following:

- (a) In the case of a refusal.
- (b) An arrest for drugs only.
- (c) A BAC of less than .08%.

c. Defendant. Include the offender's name and address, date of birth, arrest date, social security number (if available), and driver's license number.

NOTE: If the defendant is a transient, log on the CHP 735A, Case Log - DUI Cost Recovery Program (refer to Annex D), but DO NOT forward CHP 735, Incident Response Reimbursement Statement, to FMS.

d. Court. Include the name of the court, court case number, and conviction date (if applicable).

e. Recording Total Staff Hours. Record the total number of staff hours involved in the incident response.

(1) Record staff hours to the nearest ten minutes. For example: one hour, thirty minutes = 1:30.

NOTE: Half-hour increments are recorded as: **30** not: 50.

(2) Record the number of staff involved in the incident response.

(a) When only one officer is involved, write his/her name and ID number under each respective category along with the appropriate hours.

(b) When more than one officer is involved, list each one by name and ID number next to the applicable activity, then record the hours for each activity. FormFlow will add all officer hours and total them in the Total Hours column. If the number of officers per activity exceeds the number of lines available, record the information under Traffic Control.

(c) The number of staff hours charged on the CHP 735, Incident Response Reimbursement Statement, must agree with the appropriate CHP 415, Daily Field Record. Area offices must be able to verify the hours claimed on the CHP 735, Incident Response Reimbursement Statement, when offenders challenge the hours billed. If an Area office cannot substantiate the hours billed, the Department cannot recover incident costs. In order to reconcile the hours, please ensure the following information is included:

1 Offender's name and court case number shall be included on the CHP 415, Daily Field Record.

2 When time recorded under a specific category (e.g., Accident Investigation, Partner Assist, Response Time) on the CHP 415, Daily Field Record, includes more than one activity, indicate the billable DUI time in the Notes portion on the CHP 415, Daily Field Record.

f. Staff Activity (Officer). The following activities will be included in total staff time billing for which offenders are liable:

- (1) Response Time.
- (2) On-Scene Investigation.
- (3) Follow-up Investigation.
- (4) Report Writing.
- (5) Vehicle Storage.
- (6) Call Back.
- (7) Field Sobriety Testing.
- (8) Transportation.

(9) Booking.

(10) Chemical Testing.

(11) Traffic Control.

g. Other Involved Staff. Include time expended for incident investigation, vehicle storage, or in-custody activity by officers-in-charge, sergeants, lieutenants, or captains. Do not include their supervision time for these activities.

h. Total Hours. FormFlow will add all hours and minutes charged to the incident and record them in the appropriate box at the bottom of the Total Hours column.

i. Total Costs. FormFlow will multiply the number of response hours and minutes times the current hourly rate and enter the amount in the appropriate box. The hourly rates are sent out to all Area offices via Comm-Net from FMS.”

Recommendation: The command should comply with departmental policy by completing their DUI Cost Recovery Program documents accurately.

FINDING 4: **The command sought reimbursement from DUI defendants when it was not entitled to recovery.**

Condition: From a population of 22 CHP 735 billing packages, 19, or approximately 86 percent, of the packages were selected for testing. Based upon information provided within the CHP 556, Narrative/Supplemental, documents, there were two instances (nine percent) where the command sought reimbursement from the DUI defendant when it was not entitled to recovery. In both instances, the command sought reimbursement from DUI defendants when the incidents originated from an allied law enforcement agency “turn over.” The command proactively addressed this issue with staff through the use of a Roll Call Briefing Item.

Criteria: Highway Patrol Comm-Net message dated December 6, 2006, states,
“DATE: 12/07/2006 1100 HRS

TO: ALL COMMANDS

SUBJECT: DRIVING UNDER THE INFLUENCE (DUI) COST
RECOVERY PROGRAM

THIS COMM-NET IS TO CLARIFY POLICY CONTAINED IN HPM 11.1, ADMINISTRATIVE PROCEDURES MANUAL, CHAPTER 20, PERTAINING TO THE DUI COST RECOVERY PROGRAM. RECENTLY, THERE HAVE BEEN INQUIRIES REGARDING WHAT CIRCUMSTANCES PERMIT THE DEPARTMENT TO SEEK DUI COST RECOVERY. GENERALLY, THE DEPARTMENT WILL SEEK

COST RECOVERY FOR ANY INCIDENT IN WHICH AN OFFICER IS DISPATCHED TO A CALL RESULTING IN A DUI ARREST OF A DRIVER WITH A SUPPORTING BLOOD ALCOHOL CONCENTRATION (BAC). AS A REMINDER, THE FOLLOWING ARE EXAMPLES OF INCIDENTS RESULTING IN ARREST IN WHICH THE DEPARTMENT WOULD SEEK COST RECOVERY:

- * DISPATCHED TO A CALL FOR SERVICE (E.G., VEHICLE BLOCKING ROADWAY, DISABLED MOTORIST, PARTY SLUMPED OVER THE WHEEL) INVOLVING A DUI DRIVER.

- * DISPATCHED TO A TRAFFIC COLLISION RESULTING IN A DUI ARREST OF DRIVER DETERMINED TO HAVE CAUSED THE COLLISION.

HOWEVER, THE DEPARTMENT WILL NOT SEEK COST RECOVERY FROM ANY INCIDENT, INCLUDING A TRAFFIC COLLISION, WHICH AN OFFICER ENCOUNTERS ON PATROL. IN ADDITION, CONTRARY TO INFORMATION CONTAINED IN A PREVIOUS COMM-NET, THE DEPARTMENT WILL NOT SEEK COST RECOVERY FOR ANY ALLIED AGENCY DUI TURNOVER, REGARDLESS OF HOW THE ALLIED AGENCY CAME UPON THE DRIVER."

Recommendation: The command should comply with the departmental policy applicable to the DUI Cost Recovery Program when seeking reimbursement.

CONCLUSION

Based on the review of the command's operation, this audit revealed the command has adequate operations. However, some issues were observed. This report presents suggestions for management to improve on some of its operations. In doing so, operations would be strengthened and the command would operate in accordance with departmental policies and procedures.

ANNEX

A

M e m o r a n d u m

Date: April 22, 2010

To: Office of Inspections

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Yreka Area

File No.: 145.11818.12051

Subject: RESPONSE TO DRAFT YREKA AREA COMMAND DRIVING UNDER THE
INFLUENCE (DUI) COST RECOVERY AND ASSET FORFEITURE
PROGRAMS

This memorandum is intended to serve as the written response to the draft command Driving Under The Influence (DUI) Cost Recovery and Asset Forfeiture Programs inspection report of the Yreka Area as required by the Office of Assistant Commissioner, Inspector General's memorandum dated April 20, 2010.

FINDINGS REQUIRING FOLLOW-UP:**Asset Forfeiture Program:**

Finding 1 – Agree. The Yreka Area's Asset Forfeiture Coordinator will attend Asset Forfeiture Training on an annual basis, when the training is offered by Northern Division.

Driving Under the Influence (DUI) Cost Recovery Program:

Finding 1 – Agree. The Yreka Area has implemented a process which will reconcile billable hours on the CHP 735 and CHP 415. Each officer submitting a CHP 735 shall comply with the following:

- 1) The arresting officer shall attach copies of the CHP 415 from all the officers who assisted at the collision or in the arrest process to the CHP 735.
- 2) Officers shall ensure that the times recorded on the individually attached CHP 415's reconcile with the times on the CHP 735.
- 3) Both arresting officers and assisting officers shall include on their CHP 415 the offender's name and case number in the "ACTIVITY/COMMENTS" section of the CHP 415. All involved officers shall record on their CHP 415, "TOTAL BILLABLE DUI TIME" in the "notes" section when time recorded is in different categories (A/I, Arrest, response time, etc).

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- 4) Area supervisors shall review submitted CHP 735 and CHP 415 documents for accuracy prior to submittal to the Area Commander for final approval.

Finding 2 – Agree. (Refer to Finding 1)

Finding 3 – Agree. The Yreka Area uniformed supervisors shall ensure that submitted DUI Cost recovery Program documents are completed accurately, and within the guidelines of the Department's policy regarding the DUI Cost recovery program.

Finding 4 – Agree. The Yreka Area uniformed supervisors and office manager shall ensure that submitted CHP 735 documents are completed within the guidelines of the Department's policy regarding the DUI Cost Recovery Program, i.e., reimbursement sought only when the Department was entitled to recovery.

Questions regarding this response may be directed to Captain Doug M. Uhlik at duhlik@chp.ca.gov or by telephone at (530) 841-6006.



DOUG M. UHLIK, Captain
Commander

cc: Office of the Assistant Commissioner, Field
Northern Division